

# VIRGINIA ACTS OF ASSEMBLY -- 2003 SESSION

## CHAPTER 212

*An Act to amend and reenact § 2.2-4014, as it is currently effective and as it may become effective, and §§ 2.2-4031, 2.2-4102, 30-34.10:2 and 30-146 of the Code of Virginia, and to repeal §§ 2.2-4032 and 2.2-4033, as it is currently effective and as it may become effective, of the Code of Virginia, relating to publication of the Virginia Register of Regulations.*

[H 2550]

Approved March 16, 2003

**Be it enacted by the General Assembly of Virginia:**

**1. That § 2.2-4014, as it is currently effective and as it may become effective, and §§ 2.2-4031, 2.2-4102, 30-34.10:2 and 30-146 of the Code of Virginia are amended and reenacted as follows:**

§ 2.2-4014. (Effective until June 30, 2004) Legislative review of proposed and final regulations.

A. After the legislative members and the Joint Commission on Administrative Rules have received copies publication of the Register pursuant to § ~~2.2-4033~~ 2.2-4031, the standing committee of each house of the General Assembly to which matters relating to the content of the regulation are most properly referable or the Joint Commission on Administrative Rules may meet and, during the promulgation or final adoption process, file with the Registrar and the promulgating agency an objection to a proposed or final adopted regulation. The Registrar shall publish any such objection received by him as soon as practicable in the Register. Within ~~twenty-one~~ 21 days after the receipt by the promulgating agency of a legislative objection, that agency shall file a response with the Registrar, the objecting legislative committee or the Joint Commission on Administrative Rules, and the Governor. If a legislative objection is filed within the final adoption period, subdivision A 1 of § 2.2-4015 shall govern.

B. In addition or as an alternative to the provisions of subsection A, the standing committee of both houses of the General Assembly to which matters relating to the content are most properly referable or the Joint Commission on Administrative Rules may suspend the effective date of any portion or all of a final regulation with the Governor's concurrence. The Governor and (i) the applicable standing committee of each house or (ii) the Joint Commission on Administrative Rules may direct, through a statement signed by a majority of their respective members and by the Governor, that the effective date of a portion or all of the final regulation is suspended and shall not take effect until the end of the next regular legislative session. This statement shall be transmitted to the promulgating agency and the Registrar within the ~~thirty~~ 30-day adoption period, and shall be published in the Register.

If a bill is passed at the next regular legislative session to nullify a portion but not all of the regulation, then the promulgating agency (i) may promulgate the regulation under the provision of subdivision A 4 a of § 2.2-4006, if it makes no changes to the regulation other than those required by statutory law, or (ii) shall follow the provisions of § 2.2-4007, if it wishes to also make discretionary changes to the regulation. If a bill to nullify all or a portion of the suspended regulation, or to modify the statutory authority for the regulation, is not passed at the next regular legislative session, then the suspended regulation shall become effective at the conclusion of the session, unless the suspended regulation is withdrawn by the agency.

C. A regulation shall become effective as provided in § 2.2-4015.

D. This section shall not apply to the issuance by the State Air Pollution Control Board of variances to its regulations.

§ 2.2-4014. (Effective June 30, 2004) Legislative review of proposed and final regulations; suspension with Governor's concurrence.

A. After the legislative members have received copies publication of the Register pursuant to § ~~2.2-4033~~ 2.2-4031, the standing committee of each house of the General Assembly to which matters relating to the content of the regulation are most properly referable may meet and, during the promulgation or final adoption process, file with the Registrar and the promulgating agency an objection to a proposed or final adopted regulation. The Registrar shall publish any such objection received by him as soon as practicable in the Register. Within ~~twenty-one~~ 21 days after the receipt by the promulgating agency of a legislative objection, that agency shall file a response with the Registrar, the objecting legislative committee and the Governor. If a legislative objection is filed within the final adoption period, subdivision A 1 of § 2.2-4015 shall govern.

B. In addition, or as an alternative to, the provisions of subsection A, the standing committee of both houses of the General Assembly to which matters relating to the content are most properly referable may suspend the effective date of any portion or all of a final regulation with the Governor's concurrence. The Governor and the applicable standing committee of each house may direct, through a statement signed by a majority of the members of the standing committee of each house and by the Governor, that the effective date of a portion or all of the final regulation is suspended and shall not

take effect until the end of the next regular legislative session. This statement shall be transmitted to the promulgating agency and the Registrar within the ~~thirty~~ 30-day adoption period, and shall be published in the Register.

If a bill is passed at the next regular legislative session to nullify a portion but not all of the regulation, then the promulgating agency (i) may promulgate the regulation under the provision of subdivision A- 4- a of § 2.2-4006, if it makes no changes to the regulation other than those required by statutory law; or (ii) shall follow the provisions of § 2.2-4007, if it wishes to also make discretionary changes to the regulation. If a bill to nullify all or a portion of the suspended regulation, or to modify the statutory authority for the regulation, is not passed at the next regular legislative session, then the suspended regulation shall become effective at the conclusion of the session, unless the suspended regulation is withdrawn by the agency.

C. A regulation shall become effective as provided in § 2.2-4015.

D. This section shall not apply to the issuance by the State Air Pollution Control Board of variances to its regulations.

§ 2.2-4031. Publication of Virginia Register of Regulations; exceptions; notice of meetings of executive branch agencies.

A. The Registrar shall publish every two weeks a Virginia Register of Regulations that shall include (i) proposed and final regulations; (ii) emergency regulations; (iii) executive orders; (iv) notices of all public meetings and public hearings of state agencies, legislative committees and study subcommittees; (v) petitions for rulemaking made in accordance with subsection A of § 2.2-4007; and (vi) tax bulletins. The entire proposed regulation shall be published in the Register; however, if an existing regulation has been previously published in the Virginia Administrative Code, then only those sections of regulations to be amended need to be published in the Register. If the length of the regulation falls within the guidelines established by the Registrar for the publication of a summary in lieu of the full text of the regulation, then, after consultation with the promulgating agency, the Registrar may ~~print~~ publish only the summary of the regulation. In this event, the full text of the regulation shall be available for public inspection at the office of the Registrar and the promulgating agency.

If a proposed regulation is adopted as published or, in the sole discretion of the Registrar of Regulations, the only changes that have been made are those that can be clearly and concisely explained, the adopted regulation need not be published at length. Instead, the Register shall contain a notation that the proposed regulation has been adopted as published as a proposed regulation without change or stating the changes made. The proposed regulation shall be clearly identified with a citation to the issue and page numbers where published.

A copy of all reporting forms the promulgating agency anticipates will be incorporated into or be used in administering the regulation shall be ~~printed~~ published with the proposed and final regulation in the Register.

B. Each regulation shall be prefaced with a summary explaining that regulation in plain and clear language. Summaries shall be prepared by the promulgating agency and approved by the Registrar prior to their publication in the Register. The notice required by § 2.2-4007 shall include (i) a statement of the date, time and place of the hearing at which the regulation is to be considered; (ii) a brief statement as to the regulation under consideration; (iii) reference to the legal authority of the agency to act; and (iv) the name, address and telephone number of an individual to contact for further information about that regulation. Agencies shall present their proposed regulations in a standardized format developed by the Virginia Code Commission in accordance with subdivision 1 of § 2.2-4104 of the Virginia Register Act (§ 2.2-4100 et seq.). Notwithstanding the exemptions allowed under §§ 2.2-4002, 2.2-4006 or § 2.2-4011, the proposed and final regulations of all agencies shall be published in the Register. However, proposed regulations of the Marine Resources Commission and regulations exempted by subject from the provisions of this chapter by subsection B of § 2.2-4002 shall be exempt from this section.

C. Notwithstanding the definition of "agency," notices for all meetings of state agencies required to be open pursuant to the Virginia Freedom of Information Act (§ 2.2-3700 et seq.), except for legislative meetings held during regular and special sessions, shall be published in the Register. Each notice shall include (i) the date, time and place of the meeting; (ii) a brief general description of the nature of the meeting and the business to be conducted; and (iii) the name, address and telephone number of an individual who may be contacted for additional information about the meeting. Failure to publish in the Register the notice for such a meeting or any inadequacies in the information contained in the notice shall not affect the legality of actions taken at that meeting.

D. *The Virginia Register of Regulations shall be published by posting the Register on the Virginia Code Commission's website. The Virginia Code Commission may arrange for the printing of the Virginia Register as provided in § 30-146.*

§ 2.2-4102. Registrar of Regulations; personnel, facilities and services; publications.

The Commission shall engage or appoint on a contract, part-time, or annual basis a professionally experienced or trained Registrar of Regulations. Under the direction of the Commission, the Registrar shall, at a suitable place to be designated by the Commission, perform the duties required by this chapter or assigned by the Commission in accordance with this chapter or Chapter 15 (§ 30-145 et seq.)

of Title 30. The Commission shall as necessary also (i) appoint clerical or other personnel if any, (ii) arrange by contract or otherwise for the necessary facilities and services, and (iii) provide for the compilation and publication of the Virginia Register of Regulations and the Virginia Administrative Code pursuant to §§ 2.2-4031 and 30-146, respectively.

§ 30-34.10:2. Access to Code of Virginia, Virginia Administrative Code, and Virginia Register of Regulations.

The text of the Code of Virginia ~~and~~, the Virginia Administrative Code, *and the Virginia Register of Regulations* shall be a part of the legislative electronic information system and the ~~internet~~ Internet subject to such conditions and restrictions as may be established by the Virginia Code Commission in accordance with its responsibilities for publishing and maintaining the Codes *and Register* as set forth in § 30-146. Copyright interests of the Code publisher, which include case annotations, cross-reference notes, editor's notes, collateral reference notes and effect of amendment notes, shall not be violated.

§ 30-146. Publication of Code of Virginia, Administrative Code, and Register of Regulations; authority regarding type and form.

The Commission is charged with the responsibility of publishing and maintaining a Code of the general and permanent statutes of the Commonwealth. The Commission shall also have the responsibility of publishing and maintaining the Virginia Administrative Code, *and publishing the Virginia Register of Regulations as provided for in § 2.2-4031.*

The Commission may arrange for the Code of Virginia ~~and~~, the Virginia Administrative Code ~~(i)~~, *and the Virginia Register of Regulations* to be (i) printed and published by or at the expense of the Commonwealth and sold and otherwise distributed by the Commonwealth; or (ii) ~~to be~~ privately printed and published, under the direction and supervision of the Commission and upon such terms as the Commission may provide, and sold and distributed by the publisher upon such terms, including terms as to price, as the Commission may provide.

The Commission shall have full discretion to arrange for the publication of annotated or unannotated copies of the Code of Virginia ~~and~~, the Virginia Administrative Code, *and the Virginia Register of Regulations*; to fix the number of volumes; and to decide all questions of form, makeup and arrangement, including title pages, prefaces, annotations, indices, tables of contents and reference, appendices, paper, type, binding and lettering. The Commission may arrange for the Code of Virginia and the Virginia Administrative Code to be made permanent editions and kept current by means of supplements and replacement volumes.

**2. That §§ 2.2-4032 and 2.2-4033, as it is currently effective and as it may become effective, of the Code of Virginia are repealed.**

**3. That an emergency exists and this act is in force from its passage.**